IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE FIFTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL No. 2170 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 14/10/2004 in WP No. 14841 OF 1999 on the file of the High Court.)

Between:

M/s. Andhra Cements Ltd., rep by its Authorised Signatory Sr. Officer – Legal, Mr. E.V.S.R.A. Prasad, 2nd Floor, Chandralok Complex, III, Sarojini Devi Road, Near Paradise Circle, Secunderabad.

..... APPELLANT

AND

1. Madras Cements Limited, having its Registered Office at Auras Centre, 98-A, Dr. Radhakrishnan Salai, 5th Floor, Chennai - 600 004, rep by its Authorised Signatory Sri P.K. Rama Subrahmanyam.
2. The Government of India, Rep by its Joint Secretary, Ministry of Mines (Revisional Authority) Shastry Bhawan, New Delhi - 110 001.
3. The State of Andhra Pradesh, rep by is Secretary, Dept., of Industries & Commerce (Mines-II) Secretariat, Hyderabad.
4. The Director of Mines & Geology, Welfare Centre, Masab Tank, Hyderabad.
5. The Assistant Director of Mines & Geology, Maruthi Nagar, Vijayawada, Krishna District.

.....RESPONDENTS

Counsel for the Appellant: Mr. C.RAGHU

Counsel for Respondent No.1: Mr.Satyanarayana Prasad

for Mr.V.Venkateswara Rao

Counsel for Respondent No.2: Mr.A.Rajasekhar Reddy

SC for Central Government.

Counsel for Respondent Nos.3 to 5:G.P. for Industries.

The Court made the following :

ORAL JUDGMENT:

(per Honourable Sri Devinder Gupta, the Chief Justice)

The challenge by the appellant to the order passed by the learned Single Judge in Writ Petition No. 14941 of 2004 is to a very limited extent. Learned Single Judge while disposing of the Writ Petition issued certain directions and direction No.3 is that the writ petitioner and the appellant herein shall appear before the competent authority of the State Government with a copy of the judgment of the Court dated: 28.10.2004 whereupon the State Government shall permit the writ petitioner and the appellant herein to produce any additional material and dispose of the case within a period of four weeks thereafter.

The precise submission of the learned counsel for the appellant is that the writ petitioner, which is Respondent No.1 before us, has no locus standi in the matter being considered by the State Government for the purpose of renewal of mining lease. Reference has been made by the learned counsel for the appellant to the third proviso to clause (h) of sub-Rule (3) of Rule 22 of the Mineral Concession Rules, 1960 that no fresh consent would be required in the case of renewal where consent had already been obtained during grant of the lease.

The orders passed by the Central Government on 3.6.1999 bearing No.35 of 1999 in the revision filed by the appellant herein under Section 30 of the Mines and Minerals (Regulation and Development) Act, 1957 were challenged on various grounds. The Central Government had allowed the revision of the appellant holding that the State Government had grossly erred in revocation of the lease without giving reasonable opportunity to the appellant herein and in utter disregard of the fact that proceedings are pending before the BIFR. Accordingly, revocation order was set aside by the Central Government. The notification for regrant following the revocation order was also held to be bad in law. The State Government was directed to rescind the regrant notification. The case was remanded to the State Government with direction to consider the final order of the BIFR dated: 6.9.1994 and then allow the appellant herein time till 31.7.1999 to execute renewal of mining lease document in the light of the State Government's order dated: 15.9.1983 after observance of the provisions of the Rules. The first respondent had got itself impleaded in the revision which was filed by the appellant. The said order of impleading the first respondent is not challenged by the appellant, and, moreover, the locus standi of the first respondent to challenge the order of the Central Government was also not questioned in the writ petition by the appellant. Not only that, the writ petition filed by the first respondent was heard and decided on merits wherein also the question of the locus standi of the first respondent to raise any objection for grant of renewal of lease was not taken up. Learned Single Judge held that there is no illegality or impropriety in the order passed by the Central Government remanding the matter to the State Government for considering the question of revocation of grant of renewal of lease, but, concluded that while revoking the order of renewal of lease, the State Government had simultaneously issued notification on 17.5.1994 and that the first respondent was one of the applicants seeking grant of lease in respect of mining area in question and the first respondent also filed application for impleadment in the revision application before the second respondent herein and the first respondent was also heard by the Central Government before passing the order impugned in the writ petition. Therefore, no objection can be raised, in case, liberty is reserved to the first respondent to appear before the State Government while the matter is reconsidered. There is another reason for the learned Single Judge coming to this conclusion, namely, controversy between the parties is that no consent was obtained by the appellant from the pattadars at any point of time. This fact was noticed by the learned Single Judge in his order that the appellant had a lease for 99

years from Raja and Zamindar of Jayanthipuram in 1938 and after coming into force of the Act of the Mines and Minerals (Regulation and Development) Act, 1957, the Government of Andhra Pradesh reduced the period of lease effective till 30.6.1961, and, it was extended on 5.12.1961 though the area of mining lease was reduced. The lease was to subsist till 4.5.1982. On the application made by the appellant, lease was renewed in 1983 subject to certain conditions. Conditions were not complied with by the appellant. Appellant was to execute a lease deed within the time limit specified in Rule 31 and renewal was also subject to appellant's producing consent of pattadars. But, the appellant started litigation and obtained orders in W.P.No.4659 of 1984 that the requirement of production of pattadars consent has no legal sanction and that pattadars have to work out their remedies in Civil Court. In this background, the learned Single Judge held that hardly any objection can be raised to the first respondent's putting in appearance before the State Government. We are of the view that no interference, at this stage is called for with the order of the learned Single Judge.

We also make it clear that mere fact that the first respondent had been permitted to put in appearance before the State Government cannot confer any right on the first respondent, and, it will be open for the appellant herein to raise this dispute also before the State Government that the first respondent has no locus standi and the matter has to be decided by the State Government strictly in accordance with law and within the framework of the directions issued. In case, for any reason, on the objection of the first respondent, appellant will have to suffer an order, it will be open for the appellant to challenge the validity of the said order and also to raise the question of locus standi of the first respondent to oppose grant of continuation of the lease.

With these observations, the Appeal stands disposed of.

DEVINDER GUPTA, C.J.

15.2.2005.

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B.SESHASAYANA REDDY, J.

VR.

To

1. The Joint Secretary to Government of India,
Ministry of Mines (Revisional Authority) Shastry Bhawan, New Delhi - 110 001.
2. The Secretary to Government of Andhra Pradesh,
Department of Industries & Commerce (Mines-II) Secretariat, Hyderabad.
3. The Director of Mines & Geology, Welfare Centre, Masab Tank, Hyderabad.
4. The Assistant Director of Mines & Geology, Maruthi Nagar, Vijayawada, Krishna District.

5. Two CCs to Government Pleader for Industries, High Court of Andhra Pradesh, Hyderabad (OUT).

6. Two CD copies.